IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 184 of 2000

Between:

Md.Hussain S/o. late Md.Salar Bijli
R/o.D.No.59-1-92, Ward No.49, MALKAPURAM,
Visakhapatnam.

..... PETITIONER

AND

1 Gajuwaka Municipality Rep. by its Secretary
GAJUWAKA, Visakhapatnam.
2 The Port Trust, Rep. by its CHAIRMAN,
Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction, more particularly one in the nature of a WRIT OF MANDAMUS restraining respondents from interfering with the peaceful possession and enjoyment of the petitioner in an extent of 1276 sq-ft. in Ward No.49, Door No.59-1-9, Malkapuram, Visakhapatnam pending final disposal of the above Writ Petition and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: SMT. D.PRASANNA KUMARI AND SRI.D.PRABHAKAR REDDY

Counsel for the Respondent No.1: MR.S.NAGESWAR REDDY

Counsel for the Respondent NO.2: MR.P.SRI RAGHU RAM

The Court made the following :

-

ORAL ORDER

The petitioner filed the present writ petition seeking writ of Mandamus restraining the respondents from interfering with the peaceful possession and enjoyment of the petitioner in an extent of 1276 square feet in Ward No.49, Door No.59-1-92, Malkapuram, Visakhapatnam.

The contention of the petitioner in this writ petition is that in the year 1981 petitioner's father was allotted a plot of land with a thatched shed measuring 1276 square feet in Ward No.49, Door No.59-1-92 by the 1st respondent-Gajuwaka Municipality on rent basis and since then rent was paying from time to time. After the death of the father of the petitioner, the petitioner has been paying the tax to the 2ND respondent and he has been in possession and enjoyment of the land. While the matter stood thus, the respondents are trying to demolish the building, which was in possession and enjoyment of the petitioner, without following any procedure under law, is the main grievance in this writ petition.

On the other hand, the learned Standing Counsel for the respondents contend that originally the above said land was given to the father of the petitioner for running a tea stall on temporary basis and after the demise of the father of the petitioner, the licence was granted in favour of the petitioner and it was renewed up to 30-06-1994 only. While so, the Visakhapatnam Municipality has decided to develop the area, as such; the land was handed over by 2nd respondent to the Visakhapatnam Municipal Corporation on 30-06-1994 in pursuance of bilateral land transaction between the

2nd respondent and the Visakhapatnam Municipal Corporation and the list of licences was also given to the said Corporation for taking necessary action. Further, the learned Standing Counsel contends that the so-called licences were issued purely on temporary basis, as such; no right over the said lands does not arise. He vehemently argued that at present, as the respondents have no connection with the land in question, he prays the Court to dismiss the petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

As could be seen from the material averments on record, it clearly goes to show that the temporary licence issued by the 2nd respondent to the petitioner was renewed up to 30-06-1994 and thereafter the said land was transferred to the Visakhapatnam Municipal Corporation. If at all the petitioner has got any grievance against such action of transfer of land, the petitioner might have added the Visakhapatnam Municipal Corporation as party respondent in this writ petition. Without doing so, straight away filed the present writ petition. Therefore I do not see any reasons to allow the writ petition and the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. In the circumstances there shall be no order as to costs.

_____

ELIPE DHARMA RAO,J

13th JULY 2005

*TSNR

To

1 the Secretary, Gajuwaka Municipality.
GAJUWAKA, Visakhapatnam.
2 The Chairman, Port Trust,
Visakhapatnam.

3 Two C.D.Copies.